

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Tracy Redmond,

Plaintiff,

v.

No. 15-cv-3032 (JNE/HB)
ORDER

Denese Wilson, Warden,

Respondent.

Petitioner and federal inmate Tracy Redmond commenced this action by filing a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The matter is before the Court on a Report and Recommendation in which the United States Magistrate Judge recommends that the action be dismissed without prejudice for lack of jurisdiction.

Redmond timely objected to the Report and Recommendation. With his objections, Redmond contends that the Magistrate Judge erred in finding that he unsuccessfully presented the same claims he presses here to the court in which he was convicted – the United States District Court for the Northern District of Illinois – on a motion under 28 U.S.C. § 2255 in 2009. Even assuming for the sake of argument that that is true, this action must still be dismissed. As the Magistrate Judge noted, there is no doubt that Redmond’s § 2241 petition is an attack on the validity of his conviction that falls within the ambit of § 2255. Whether Redmond asserted the particular grounds he includes in his § 2241 petition on his prior § 2255 motion is therefore inconsequential; he still “has the burden of showing that the remedy under § 2255 would be inadequate or ineffective,” *Abdullah v. Hedrick*, 392 F.3d 957, 959 (8th Cir. 2004), and, as the Magistrate Judge found, he has failed to do so. This Court therefore lacks jurisdiction.

Thus, after conducting a de novo review of the record and considering Redmond's objections, the Court now overrules those objections and adopts the Report and Recommendation.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Petitioner's Objection to the Report and Recommendation [ECF No. 3] is
OVERRULED.
2. The Report and Recommendation [ECF No. 2] is ADOPTED.
3. This action is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 18, 2015

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge